

## Rosalyn Charles

---

**From:** Scott Waltz [swaltz@csumb.edu]  
**Sent:** Thursday, July 11, 2013 1:15 PM  
**To:** FORA Board; cityhall@delreyoaks.org  
**Cc:** Rita Dalessio; Steve Zmak; Joel Weinstein; Michael Houlemard; Jonathan Garcia  
**Subject:** Request that FORA complete Alan Waltner scope of work  
**Attachments:** March20.pdf; WaltnerScopeCat2Request.pdf

Dear FORA Board Members:

Please see attached Sierra Club letter requesting that the FORA Board direct Alan Waltner to complete the scope of work re: CEQA issues and Category II. Also find attached SC letter provided for 22 March FORA Board meeting, mentioned in current letter.

Sincerely,

Scott Waltz  
Sierra Club, Ventana Chapter

--

Scott B. Waltz, PhD.  
Associate Professor, Social Foundations of Education  
California State University Monterey Bay  
100 Campus Center, Building 82C  
Seaside, CA 93955-8001

[831.582.5334](tel:831.582.5334)  
[swaltz@csumb.edu](mailto:swaltz@csumb.edu)

"Your task is to create exciting learning situations. You are neither judge, nor prosecutor, but simply a large person who has a longer past. In fact, you're not really very bright. Children can teach us more about life than the words of all the sages of history. Bend. Heal."

*Acclimitization*, Steve Van Matre

[This message is intended only for the addressee and may contain confidential, privileged information. If you are not the intended recipient, you may not use, copy or disclose any information contained in the message. If you have received this message in error, please notify the sender by reply email and delete the message.]



## SIERRA CLUB VENTANA CHAPTER

P.O. BOX 5667, CARMEL, CALIFORNIA 93921

CHAPTER OFFICE • ENVIRONMENTAL CENTER (831) 624-8032

March 20, 2013

email to [board@fora.org](mailto:board@fora.org)  
and [michael@fora.org](mailto:michael@fora.org)

Board of Directors and  
Michael Houlemard, Executive Director  
Fort Ord Reuse Authority (FORA)  
910 2nd Avenue, Ste. A  
Marina, CA 93933

Re: March 22 - Base Reuse Plan Reassessment Workshop - Category II

Dear FORA Directors and Michael:

Regarding Category II to be considered at your March 22 Reassessment Workshop, this letter will explain why FORA must conduct California Environmental Quality Act (CEQA) review before using prior FORA Board legislative consistency determinations to modify Land Use Concept Ultimate Development Figure 3.3-1. This letter will also explain why applicable law requires that the 2001 Base Reuse Plan (BRP) be modified **before** legislative consistency determinations are made, rather than the reverse process which FORA would be using if it allowed the prior legislative consistency determinations to modify Figure 3.3-1.

We will begin by discussing the difference between Title 7 of the California Government Code, which is *not* applicable to FORA's legislative consistency determinations, compared to Title 7.85, which is applicable.

**FORA's prior legislative consistency determinations were made under Title 7 of the Government Code, rather than under Title 7.85**

Every prior legislative land use consistency determination that FORA has made contains a factual finding that "consistency" is defined therein in the same way that "consistency" is defined in the context of general plan consistency findings. General plan consistency findings are governed by Title 7 of the California Government Code. They are based on functional consistency with the concept of the general plan. In contrast, instead of the broad discretion allowed by Title 7, consistency findings with the Fort Ord Base Reuse Plan are governed by Title 7.85 of the Government Code, including Government Code section 67850.5 which authorizes the FORA Board to enter into agreements to mitigate impacts of the reuse of Fort Ord. Pursuant to Title 7.85, the FORA Board in 1998 entered into such an agreement with the Sierra Club. The agreement is referred to as the 1998 FORA-Sierra Club settlement agreement ("Sierra Club settlement agreement") and it governs how FORA's legislative consistency findings must be made.

*...To explore, enjoy, preserve and protect the nation's forests, waters, wildlife and wilderness...*

Title 7.85 of the Government Code and the Sierra Club settlement agreement describe a process for modifying the Base Reuse Plan that is the reverse of the process described on page 37 of 125 in the March 15, 2013 Board Packet. Page 37 states:

“The purpose of compiling Board actions and publishing the BRP from time to time is to keep the BRP up to date with approved consistency determinations.”

The above statement turns Title 7.85 on its head by assuming that FORA can certify general plans as being consistent with the BRP and on that basis modify the BRP. Nowhere does Title 7.85 state that a city’s or county’s general plan, even if found consistent with the BRP, can modify the adopted BRP. Rather, Title 7.85 states the opposite. Government Code section 67675.2(a) requires that the BRP be modified **before** the general plan can be certified as being consistent with the BRP, so that the general plan can be carried out in a manner “fully in conformity with [Title 7.85].” Government Code section 67675(f) states that in revising the reuse plan, the FORA Board shall be consistent with county-wide or regional plans required by federal or state law “*other than local general plans.*” (Govt. Code § 67675(f). (Emphasis added).) Moreover, Title 7.85 states that the “*adopted*” plan (emphasis added) shall be the official local plan for the reuse of the base for all public purposes. (Govt. Code § 67675(a).) The current “adopted” BRP is the 2001 BRP and will be until it is modified in compliance with Title 7.85 and the Sierra Club settlement agreement.

FORA’s prior legislative land use consistency determinations include the Seaside General Plan (Resolution #04-6), Marina General Plan (Resolution #07-16), Del Rey Oaks General Plan (**Resolution #98-2**), and County of Monterey General Plan (Resolution #02-3). All four contain factual findings K and L, which state:

K. “In this context, the term ‘consistency’ is defined in the *General Plan Guidelines* adopted by the State Office of Planning and Research as follows: ‘An action, program, or project is consistent with the *general plan* if, considering all its aspects, it will further the objectives and policies of the *general plan* and not obstruct their attainment.’ [Emphasis added.]

L FORA’s consistency determination must be based upon the overall congruence between the submittal and the Reuse Plan, not on a precise match between the two.”

FORA’s prior legislative consistency determinations do not state that they modified the BRP. They couldn’t, for three reasons. First, they were made under Title 7, rather than under Title 7.85 of the Government Code. Second, Title 7.85 requires that the general plan be consistent with the BRP, rather than that the BRP be consistent with the general plan. Third, Resolutions #04-6, #07-16, #98-2 and #02-3 do not state that they modify the BRP. The only documents stating that FORA’s prior legislative consistency findings modified the BRP are the March 15, 2013 Board packet, page 37, and similar FORA staff opinions. Pursuant to Title 7.85 of the Government Code, none of FORA’s prior legislative consistency determinations have modified the BRP. When FORA

decides to modify the BRP, FORA will need to follow requirements of Title 7.85 of the Government Code. Doing so will involve FORA making a discretionary decision that could affect the environment. Thus, Public Resources Code section 21080 will require that FORA perform CEQA review.

### One example of FORA's reversal of the Title 7.85 requirements

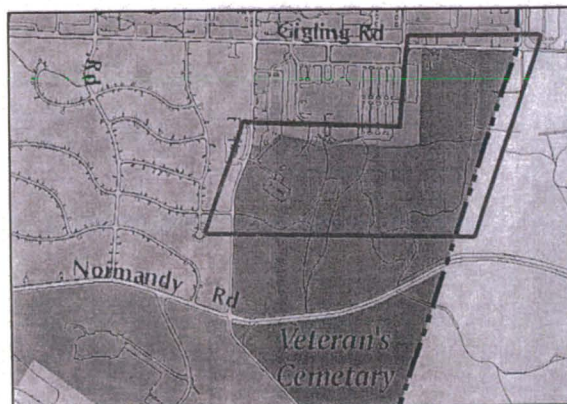
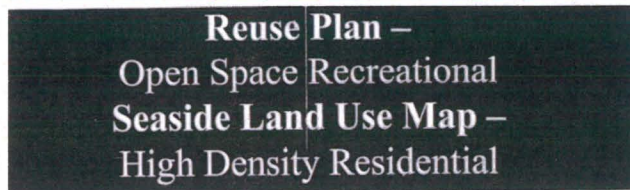
The problems that arise from FORA reversing the Title 7.85 requirements for modifying the BRP are illustrated by Parcel E18.1.3. It is depicted in this photograph as it appeared on March 3, 2013 when Scott Waltz took this photo.



Parcel E18.1.3 is a 40-acre parcel that has been transferred from FORA to Seaside with a deed restriction that states it can *only* be used and developed in a manner consistent with the Reuse Plan. It is located just a few blocks from 8th and Gigling.



On December 10, 2004, the FORA Board adopted Resolution #04-6 making a legislative land use consistency determination that the City of Seaside General Plan, which assigns a high density residential use to Parcel E18.1.3, was consistent with the BRP, which assigns open space recreational use to Parcel E18.1.3. An accompanying Seaside staff report made part of Resolution #04-6 states that such redesignation is Seaside's intention, but nowhere does Resolution #04-6 state that the BRP is modified accordingly. Thus Parcel E18.1.3 is redesignated from open space recreational use to high density residential use in Seaside's general plan, but not in the adopted BRP.



Resolution #04-6 is entitled "Resolution Determining Consistency of the City of Seaside General Plans [sic] with the Fort Ord Base Reuse Plan." It states that FORA finds that Seaside has provided substantial evidence that its general plan is consistent with the BRP. Resolution #06-4 contains the above-quoted Findings K and L. Those findings establish that the Seaside General Plan would be consistent with the BRP if the BRP were a general plan, which of course it is not. Most importantly however, Resolution #04-6 nowhere states that it modifies the BRP.

Thus, even though FORA staff appears to believe that FORA's prior legislative consistency findings modified the BRP, no law or evidence supports that belief.

**What would Seaside and FORA need to do before the BRP could be modified to make high density residential use on Parcel E18.1.3 consistent with the BRP?**

Section 8.02.010(a) of the Sierra Club settlement agreement answers the above question.

Pursuant to subdivision (3) of Section 8.02.010(a), Parcel E18.1.3 would need to be in substantial compliance with BRP programs applicable to high density residential use. FORA staff would need to analyze which programs those are, but they definitely would include Residential Land Use Program 1.1-1 (Prepare Design Guidelines for Development within Former Fort Ord). Of course there are other programs applicable to high density residential use. However, the task of determining what they are should be performed initially by FORA's planning staff.

In addition to subdivision (3), there are also subdivisions (1), (2), (4) and (5) of the Sierra Club settlement agreement Section 8.02.010(a). Analysis of high density residential use on Parcel E18.1.3 would need to be analyzed for consistency with those subdivisions as well.

Seaside would need to apply for modification of the BRP to make the BRP consistent with Seaside's redesignation of Parcel E18.1.3. After ensuring that such modification would be in compliance with Section 8.02.010(a), the FORA Board would need to conduct CEQA review for Seaside's application. An initial study would recommend the extent of necessary CEQA review. If all applicable BRP programs had been implemented and the changed uses were in substantial compliance with those programs, the needed CEQA review would likely be pretty minimal.

**Is the same true for modifying the BRP to make FORA's other prior legislative consistency determinations consistent with the BRP?**

Yes. In the case of Seaside's 2004 application for a consistency determination, there were a total of ten land use designations that differ from the land use designations in

the Base Reuse Plan. Parcel E18.1.3 and the other nine are listed on pages 1 and 2 of the October 21, 2004 supporting documentation submittal by the City of Seaside to FORA, which can be found in the November 19, 2004 FORA Board Packet. A similar analysis would need to be performed for each of the other nine changed land use designations, after which implementation of applicable programs could be completed along with other requirements of the Sierra Club settlement agreement section 8.02.010(a). Thereafter, CEQA review would probably be minimal to modify the BRP accordingly. However, until the above described steps are completed, the FORA Board will be in violation of Title 7.75 of the California Government Code and CEQA if it modifies Land Use Concept Ultimate Development Figure 3.3-1 based on FORA's prior legislative consistency determinations.


### Conclusion

Sierra Club acknowledges that the FORA Board has complete discretion as to how it proceeds with the reassessment process as long as the process complies with Title 7.85 and the Sierra Club settlement agreement. However, we respectfully suggest that for the reasons explained in this letter, reversing the order of Category II (Prior Board Actions and Regional Plan Consistency) with Category III (Implementation of Policies and Programs) might prove to be the fastest way to get the former Fort Ord developed in accordance with the BRP.<sup>1</sup>

Yours sincerely,



Jane Haines, member  
Sierra Club FORA subcommittee



Scott Waitz, member  
Sierra Club FORA subcommittee

---

<sup>1</sup> Category II is explained beginning on page 3-19 of the Final Reassessment Report, and Category III is explained beginning on page 3-32.



## SIERRA CLUB VENTANA CHAPTER

P.O. BOX 5667, CARMEL, CALIFORNIA 93921

CHAPTER OFFICE • ENVIRONMENTAL CENTER (831) 624-8032

11 July 2013

Dear FORA Board Members:

Please direct Alan Waltner to complete the scope of work regarding CEQA issues and Category II.

At the upcoming July 12th FORA Board meeting, the Executive Officer's report will include presentation of the BRP CEQA and Land Use Memorandum Summary (referred to here below as *the Waltner memo*).

The information in the Board packet (p. 163) and the Waltner memo itself provide a general overview of CEQA law and a final recommendation for an initial study as the post-reassessment process moves forward.

However, neither the Board packet information nor the Waltner memo itself make clear that **this memorandum does NOT complete the contractual scope of work**. Specifically, Task 1 (Review of the Final 2012 BRP Reassessment Report - Category 2) in the Scope of Work calls for the following deliverable:

"Legal memorandum addressed to FORA Board advising retrospectively and prospectively on the Land Use and CEQA implications of potential Board direction concerning Category 2 items (prior FORA Board Consistency Determinations and other Board Actions), and other items as identified, described in the 2012 BRP Reassessment Report. In-person presentation to the FORA Board of Directors or Board-established committee(s)."

The Waltner memo addresses Task 2 (Land Use and CEQA advice with respect to potential Board actions), but neglects to provide:

1. Advice on Task 1
2. A description of when Alan Waltner will be making his in-person presentation(s) or
3. Commentary regarding if and when Alan Waltner will be asked to pursue further work, i.e. Task 1, and provide it to the FORA Board.

My understand is that the \$24, 950 allotted in the Scope of Work has been only partially spent, so there are sufficient funds remaining to complete the scope of work.

It is worth noting that it was in response to the Category II concerns that Supervisor Potter suggested at the 22 March Board meeting that FORA retain counsel to get advice on these matters, in the first place. For further information on issues related to past consistency determinations, see the 20 March Sierra Club letter sent to the FORA Board.

...To explore, enjoy, preserve and protect the nation's forests, waters, wildlife and wilderness...



SIERRA CLUB VENTANA CHAPTER

P.O. BOX 5667, CARMEL, CALIFORNIA 93921

---

CHAPTER OFFICE • ENVIRONMENTAL CENTER (831) 624-8032

The Sierra Club requests that the FORA Board direct Alan Waltner to complete the scope of work regarding CEQA issues and Category II.

Sincerely,

Scott Waltz, Ph.D.  
Sierra Club, Ventana Chapter



## Rosalyn Charles

---

**From:** Haines Jane [janehaines@redshift.com]  
**Sent:** Thursday, July 11, 2013 2:39 PM  
**To:** FORA Board  
**Cc:** Michael Houlemard; emorgan@blm.gov; Jonathan Garcia  
**Subject:** July 12 FORA agenda item 8d  
**Attachments:** PRACReportRev reduced file.pdf

Dear FORA Directors:

Attached is my revised report in support of the Post-Reassessment Advisory Committee recommendation for FORA to co-sponsor with CSUMB a colloquium on four topics pertaining to jump-starting the Central Coast region's economy.

Sincerely,  
Jane Haines

# Economic Development By Emphasizing



## Revised Report

7/11/13

### What is this report about?

This report describes what I learned about the economic benefits that the Fort Ord National Monument could bring to the Central Coast region by stimulating tourism and recreation jobs. The report's findings are based on what I learned from:

- daily photographing various locations at the Monument between 6/28 and 7/6/13,
- reading studies pertaining to Monterey County's economic development by emphasis on the Fort Ord National Monument,
- interviewing persons involved with the Monument, including Eric Morgan, BLM director of the Fort Ord National Monument,
- communications on 7/9/13 to and from Headwaters Economics, an independent, nonprofit research group that researches the economic value of public lands.

This report makes the following findings:

- the 2012 [Base Reuse Plan Reassessment Market and Economic Analysis](#) by EPS and economic studies by other well-regarded firms conclude that a thoughtful implementation strategy for marketing the Monument could result in substantial job and economic growth in the Central Coast region,
- caution is advised in matters such as what moniker should be used to publicize the Fort Ord National Monument, and what the Monument marketing should and should not promise visitors,
- a strategy for successfully marketing the Monument should include implementation of non-implemented open space and recreation programs in the 1997 Base Reuse Plan.

I compiled this report to provide background for the Fort Ord Reuse Authority (FORA) Board of Directors decision on July 12 regarding whether to accept the recommendation of the Post-Reassessment Advisory Committee to authorize a colloquium to discuss four topics, one of which is how to emphasize the National Monument designation in order to serve as an immediate catalyst for tourism and other economic development.

Jane Haines  
email: [janehaines@redshift.com](mailto:janehaines@redshift.com)  
July 11, 2013

### What Is Currently Going On At the Fort Ord National Monument?

In the 15 months since the Monument was established, the BLM has:

- distributed 50,000 trail maps and guides to local hotels and by placing copies at trail heads
- used laser beam counters to gauge public use at Creekside trail head, Badger Hills, Jerry Smith Corridor and elsewhere
- performed habitat restoration on approximately 10 acres
- developed segments of two new trails, totaling around 3 miles.

The laser beam counters indicate 150,000+ visitors yearly. Volunteer patrols sampling visitors indicate that around 60% are hikers/joggers, 37% bikers, and 3% equestrian.<sup>1</sup>

Much of the current activity at the Monument is a continuation of activities originating prior to April 20, 2012 when the Monument was established. One of the most popular activities is mountain biking.



BLM Trail Map & Guide available at Creekside trail head 7/5/13



Mountain bikers at Creekside trail head 7/3/13

### Economic Studies Forecast that Emphasis on the Fort Ord National Monument Can Significantly Increase Economic Prosperity in the Central Coast Region

Economic studies by well-regarded financial analysis organizations are in agreement that designation of the Fort Ord National Monument has the potential to bring major economic benefits to Monterey County. The studies are discussed below.

<sup>1</sup> July 1, 2013 interview with Eric Morgan.

First, the 147-page 2012 study entitled Fort Ord Base Reuse Plan Reassessment Market and Economic Analysis by Economic & Planning Systems, Inc. repeatedly recommends that FORA promote economic development at Fort Ord by emphasis on the Fort Ord National Monument. The study's recommendations can be found at <http://www.fora.org/Reports/FinalReassessment/MarketStudy.pdf> on the following pages:

- pg. 7 - if accompanied by a thoughtful implementation strategy, the Monument can help extend tourism and related spending to nearby communities
- pg. 13 - paths for bicycle, pedestrian and equestrian uses without conflict should be constructed according to a full master plan for the Monument
- pg. 14 - FORA and its successor should expand Monument marketing and branding
- pg. 26 - the Monument designation has the potential to establish Fort Ord as a tourist and recreational destinations, building on the unique military heritage of Fort Ord as well as the outdoor recreational amenities
- pg. 39 - the Monument, when coupled with the proposed development of new resort products, will facilitate the capture of more tourist spending in Fort Ord jurisdictions
- pg. 97 - development of the Monument as a tourist attraction will bolster the ability of Fort Ord projects to capture tourist demand and growth in the Peninsula hospitality market
- pg. 104 - Fort Ord retail sales serving tourists are expected to total approximately \$61 million annually if there is a successful effort to activate the Fort Ord National Monument.



Sheltered picnic site at Creekside trail head.

Second, the 2012 8-page study by Headwater Economics of Bozeman, Montana entitled [Fort Ord's Public Lands and Economic Prosperity](http://headwaterseconomics.org/wphw/wp-content/.../Fort_Ord_Report.pdf) at [headwaterseconomics.org/wphw/wp-content/.../Fort\\_Ord\\_Report.pdf](http://headwaterseconomics.org/wphw/wp-content/.../Fort_Ord_Report.pdf) cites twenty-four references in support of its conclusion that Fort Ord lands “provide an important foundation for quality of life and economic prosperity for Monterey County.” The study notes that the Fort Ord public lands “support a growing travel and tourism section--which the county has identified as a future priority--

while also helping to attract new residents, retirees, and businesses that will further diversify the local economy. “

Third, the 25-page December 2011 Power Point presentation by SRI International at <http://www.co.monterey.ca.us/EconomicDevelopment/SRI%20EDC%20Opportunities%20Presentation%201211.pdf> is entitled Crafting an Economic Vision for Monterey County. It was presented to the Monterey County Economic Opportunity Committee and addresses tourism as a major pillar of Monterey County’s economy. The Power Point format is too cryptic to be helpful, but the back-up explanation would likely provide a very useful roadmap for avoiding mistakes in designing an economic development program utilizing the Monument to attract recreational tourism.

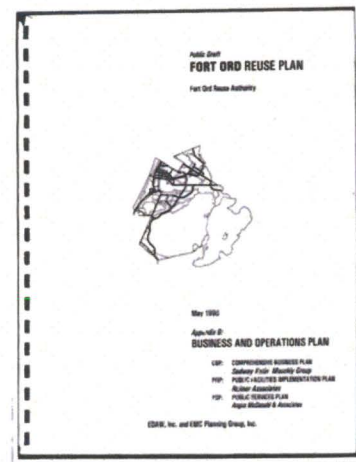
Lastly, the Monterey County Economic Development Department currently maintains a website at <http://www.co.monterey.ca.us/EconomicDevelopment/economy-workforce.shtml>. The website states that as of 2010, tourism and hospitality accounted for 12.1% of Monterey County jobs, lagging behind only farming (27.7%) and government (19.5%). Although the website does not contain a study specifically about the Fort Ord National Monument, it is helpful for acquiring basic facts about the economy of Monterey County.

### Reports Urge Caution in Marketing the Fort Ord National Monument

The Post-Reassessment Advisory Committee recommendation is for colloquium discussion of the National Monument designation to serve as an “immediate” catalyst for tourism and economic development. However, the reports describe some cautions that should be kept in mind before marketing the Monument gets underway.

First, the 1997 Base Reuse Plan The 1997 BRP Fort Ord Comprehensive Business Plan warns against using the words “Fort Ord” in the marketing moniker. It states that the overall marketing of Fort Ord properties should be guided by the definition of a single location name:

“Initially, it is important to capitalize on the area’s strengths, one of which is the cache of the ‘Monterey’ name. It is a near certainty that a reference to ‘the Monterey Crescent’ or ‘South Monterey Bay’ would have broader appeal to potential tenants, businesses, residents, and the private development community than identification with the ‘former Fort Ord’ or its lesser known constituent communities. At this time, the Team does not recommend a specific



The 1997 Base Reuse Plan (BRP) contains a Business and Operations Plan which advises using the word “Monterey” in any marketing plan for the former Ft. Ord.

name, but defining an identity should be an early priority. There are numerous examples of the importance of building an identity. One is Vail Associations' (VA) marketing of Beaver Creek, Colorado. The developers of the world-renowned Vail ski resort developed a new, very upscale resort and recreational community located 10 miles west of Vail. Initially, VA's approach was to develop and market Beaver Creek as a separate, independent and very exclusive resort, with little emphasis on its connections to Vail, either in terms of proximity or VA's corporate involvement. Over time, this marketing mistake became apparent. As a result, a new strategy evolved based on Vail/Beaver Creek as sister resorts. Later, the identity was strengthened, with the two resorts termed the 'Vail Valley.' These latter strategies have been much more successful, as they built on the established international identity of Vail."

There is wisdom in the above observation. Each of us has seen the facial transformation of people who hear the words "Monterey Bay" i.e., people's eyes opening wider as they sigh and say, "what a beautiful place!" Thus, instead of being marketed as the Fort Ord National Monument, perhaps it should be marketed as the **Monterey Bay** Fort Ord National Monument.

Second, research shows that if people's expectations are dashed by disappointing experiences, that can have long-lasting undesirable consequences. Research by three economists at <http://www.voxeu.org/article/dashed-expectations-individual-reactions-global-crisis> used survey data gathered in Bulgaria which shows that even ten years after experiencing a financial crisis, widespread expectations of another crisis were substantially elevated.

Based on my successive daily visits to the four major trail head parking lots at the Fort Ord National Monument over the 9-day period between June 28 and July 6 at which times I photographed the empty parking lots and the absence of needed signage, plus a disappointing report from my waitress at Toro Cafe near the Badger Hills trail head, who told me that since the Badger Hills entrance opened in March, 2013, the cafe has experienced only a slight increase in customers, I am concerned that if the Fort Ord National Monument is portrayed as a more desirable outdoor experience than visitors find it to be, visitors might dub it the Fort Ord "monumental disappointment" and it could take decades



Nearly empty parking lot at Badger Hills parking lot on July 3 at 10:56 a.m.